

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
BEFORE THE IOWA UTILITIES BOARD

IN RE:	
INTERSTATE POWER AND LIGHT COMPANY	DOCKET NOS. TF-2016-0321 & TF-2016-0322

**MOTION AND APPLICATION FOR RECONSIDERATION**

The Iowa Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, that, pursuant to Iowa Code chapter 475A (2017), represents the interests of consumers and the public in proceedings before the Iowa Utilities Board (Board), and hereby submits this Motion and Application for Reconsideration pursuant to Iowa Code Section 476.12 (2017) and Board rules 199 IAC 7.12 and 7.27. In support of this Motion and Application, OCA states the following:

**BACKGROUND**

The Board's alternate energy production (AEP) statutes, Iowa Code §§ 476.41 through 476.45 (2017), were enacted in 1983 with a stated purpose to encourage AEP development. The Board adopted the net-metering rule in 1984 as part of its AEP rules in Docket No. RMU-83-30. The rule requires Iowa's rate-regulated electric utilities, Interstate Power and Light Company (IPL) and MidAmerican Energy Company (MEC), to operate in parallel through net metering (with a single meter monitoring only the net amount of electricity sold or purchased) with an AEP facility. 199 IAC 15.11(5).<sup>1</sup> Net metering encourages AEP development by allowing AEP customers to net AEP kWh production against retail kWh usage from the utility. It does not

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<sup>1</sup> *In re: Distributed Generation*, Docket No. NOI-2014-0001, "Order Regarding Policy Statement, Rate Design Presentations, and Net-Metering Generation Pilots," p. 3 (IUB, Oct. 30, 2015) (October Order).

involve separate purchase and sale transactions – rather, net metering is a metering arrangement that nets kWh against kWh during the net metering period.<sup>2</sup>

The Board’s authority to mandate net metering is implicit through its authority to enforce the Public Utility Regulatory Policy Act of 1978 (PURPA), 16 U.S.C. § 824a-3, and the AEP statutes, both of which seek to encourage the development of PURPA qualifying facilities (QFs) and small renewable energy generation facilities. Pursuant to a settlement of state and federal litigation over the net metering rule, the Board in 2001 approved a settlement tariff for MEC which: 1) limited net metering to 500 kW of capacity per AEP facility; and 2) carried forward any net excess generation for net metering to future months, rather than purchasing it from the AEP facility. Similar tariff terms were approved for IPL.<sup>3</sup>

On January 7, 2014, the Board commenced an inquiry into distributed generation (DG), including its net metering rule, and received comments from dozens of participants. Despite much higher levels of DG development over the past few years driven by declining DG technology costs and the availability of utility energy efficiency plan incentives and state and federal tax credits, DG penetration levels are relatively low in Iowa. IPL eliminated its renewable energy incentive and federal tax incentives are also expected to be of limited duration. It is uncertain whether current DG deployment rates will continue.<sup>4</sup> Finding that it would be premature to study the costs and benefits of DG, as some participants including OCA urged, the Board concluded that the best option for Iowa is to conduct pilot projects exploring various

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<sup>2</sup> *Id.* at pp. 3-4. *See also, In re: MidAmerican Energy Company*, Docket No. EL99-3-000, “Order Denying Request for Declaratory Order” (FERC, Mar. 28, 2001) (declining to find that the net metering offsets during a net metering period constituted purchase and sales transactions preempted by federal law (PURPA) avoided cost requirements).

<sup>3</sup> October Order, p. 5 (citing IUB Docket Nos. TF-01-293, TF-03-180, and TF-03-181).

<sup>4</sup> October Order, pp. 7-8.

aspects of net metering or other DG issues that could be used to inform future policy or rule changes:

A pilot approach would create an opportunity for innovation and exploration of best practices outside the parameters of current net-metering policies. It also provides an opportunity to make changes on a limited basis in order to determine the impacts those changes might have on the utility and its customers prior to making these changes permanent.<sup>5</sup>

Therefore, the Board “encourage[d] all utilities,” but particularly MEC and IPL, “to consider implementing pilot projects that will expand renewable DG in Iowa, and to collaborate with the participants in this NOI while developing pilot program proposals.”<sup>6</sup> Potential changes to the net metering rule were to be considered after pilot results are evaluated.<sup>7</sup> The Board directed IPL and MEC to file a Preliminary Implementation Plan for proposed pilot projects on or before January 28, 2016, and subsequently granted requests by IPL and MEC to extend the filing date for the Plans.

IPL and MEC each filed Plans on March 28, 2016. Several participants filed comments related to the proposed Plans that offered extensive reviews addressing net metering topics and expressed concerns with the proposed pilot projects. The Board cited these considerations and its desire to study the impact of raising the net metering cap and the treatment of excess net metering credits. Although stating that it did not intend to make permanent changes to its net metering rules, the Board directed IPL and MEC to file net-metering pilot tariffs reflecting the following provisions that would be effective for a three-year study period:<sup>8</sup>

- 1) Increase the net metering cap from 500kW to 1 MW (up to 100 percent of the customer’s load);

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<sup>5</sup> October Order, p. 7.

<sup>6</sup> *Id.* at pp. 9-10

<sup>7</sup> *Id.* at p. 10.

<sup>8</sup> *In re: Distributed Generation*, Docket No. NOI-2014-0001, Order Directing Filing of Net Metering Tariffs, p. 2 (IUB, July 19, 2016) (July Order).

- 2) Allow all customer classes to net meter but specify that each customer's generation will only offset the energy (kWh) charges and thus will not offset the customer charge or demand charge; and
- 3) Provide for an annual cash-out of excess credits at the utility's tariffed avoided cost rate. The funds from the cash-out will be divided evenly between the customer and the utilities' funds to provide assistance to customers in need or the customer may choose to allow up to all of the excess credits to be distributed to provide assistance to customers in need.

The order further specified that these tariffs will be effective for all customers who file interconnection applications after the Board approves the tariffs. Accordingly, upon approval of new pilot net metering tariffs, new interconnection customers will not be able to rely on the Board's current net metering rule as reflected in current net metering tariffs. Prior to the conclusion of the three-year study period, the Board will determine whether the changes should be incorporated on a permanent basis along with revisions to 199 IAC 15.11(5), the current net metering rule.<sup>9</sup>

On August 31, 2016, IPL filed a compliance tariff, identified as TF-2016-0321. The Board issued an order docketing the tariff for further investigation on September 27, 2016, and established dates for receiving comments on the proposed tariff. OCA filed comments and an objection on September 20, 2016. The Board issued an order on February 3, 2017, in which it approved certain aspects of IPL's proposed net metering tariff. The Board directed IPL to file a revised proposed tariff in conformance with its February 3, 2017 order, and expressed its intent that this tariff should become effective by April 1, 2017. OCA seeks reconsideration of this order on the grounds stated below.

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<sup>9</sup> *Id.* at p. 4.

## GROUND FOR RECONSIDERATION

The Board erred in approving the net metering tariff proposal submitted by IPL in the following respects:

**1. IPL's Proposed Net Metering Tariff Would Impose an Inappropriately Restrictive AEP/QF Size Limit That is Needlessly Complicated and Creates an Impediment to Many Customers Considering Distributed Generation**

The Board has specified that the net metering cap in the pilot tariffs be increased “from 500 kW to 1 MW (up to 100 percent of a customer’s load).”<sup>10</sup> The Order does not define how a customer’s load should be measured. The Board accepted IPL’s proposal to define customer load by using the customer’s actual historic demand billing or by applying an annual average class load factor to the consumer’s annual usage. While a customer’s actual historic demand billing is a suitable method to determine customer load, most residential and small customers are not on demand meters. Accordingly, most customer loads can only be determined by applying the annual average load factor to the customer’s annual usage.

OCA explained that a determination of load using the average load factor of the customer class is problematic in this case because it creates a disadvantage for customers whose actual load factor is below the average.<sup>11</sup> According to IPL’s tariff interpretation letter,<sup>12</sup> customer load is calculated as follows for a residential customer with annual usage of 12,000 kWh and a class average load factor of 25 percent:

$$\text{Load Cap} = \frac{\text{Annual usage}}{365 \text{ days} \times 24 \text{ hrs} \times 25\%} = \frac{12,000 \text{ kWh}}{8,760 \text{ hrs} \times 25\%} = 5.48 \text{ kW}.$$

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<sup>10</sup> *Id.* at p. 3.

<sup>11</sup> OCA Response and Objection in Docket No. TF-2016-0321 (Sept. 20, 2016).

<sup>12</sup> *Interstate Power and Light Company*, Docket No. TF-2016-0321, “Interpretation No. IPL E2016-25,” p. 2 (Aug. 31, 2016).

However, if the customer's actual load factor is less than 25%, for example, 19%,<sup>13</sup> then, all else being equal, a cap of 5.48kW will be less than 100 percent of that customer's actual load. Under IPL's proposed method for calculating load, the customer's 100 percent load equivalent would be 5.48kW, which is less than the customer's actual load:

$$\text{Load Cap} = \frac{\text{Annual usage}}{365 \text{ days} \times 24 \text{ hrs} \times 19\%} = \frac{12,000 \text{ kWh}}{8,760 \text{ hrs} \times 19\%} = 7.21 \text{ kW}.$$

Thus, the customer with an actual load factor of 19% will not qualify for net billing energy credits for 1.73kW, which represents nearly a quarter of its load. A customer in this situation will either have to size the DG facility to be smaller than needed for the customer's load or enter into two separate arrangements with IPL: the first arrangement will be for net metering, while the second arrangement will be for a purchase power agreement (PPA) for any generation in excess of the customer's 100 percent of load, as defined by IPL. This outcome is needlessly complex and will disproportionately affect residential and small commercial customers because these customers can have significantly different load and most of these customers are not demand metered and would be subject to the average load calculation.<sup>14</sup>

MidAmerican's new net metering tariff, TF-2016-0323, proposes a more straightforward approach for calculating customer load based on a customer's historical or anticipated annual energy usage. MidAmerican's approach is also preferable because it fairly calculates load for all customers and does not present the adverse and potentially discriminatory treatment that is inherent under IPL's approach. IPL's proposed use of the average class load factor to measure load is needlessly complex and places certain customers at a disadvantage. OCA recommends

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<sup>13</sup> The choice of 19 percent is arbitrary and used solely for the purpose of illustration.

<sup>14</sup> It is not clear from IPL's proposed tariff whether IPL would utilize actual demand load from customers on demand meters, or if it would apply the average load calculation to all net metering customers.

that the Board direct IPL to adopt a more straightforward and fair method of measuring customer load such as that proposed by MidAmerican.

OCA agrees with the Board that there is value in studying different approaches to net metering issues through pilot assessments. However, the pilot assessments are now proposed to entirely displace the current net metering approach for new net metering customers. It is critical therefore that the pilots be constructed in a manner that will not undermine the current net metering rule and Iowa policy encouraging DG. IPL's proposed net metering pilot tariff creates barriers to prospective DG customers and thereby undermine Iowa policy which seeks to encourage DG.

**2. The Flaws in IPL's Proposed Calculation of Customer Load and AEP/QF Size Limit Causes the Tariff to Be Inconsistent with the Purposes for the Pilot Plans and Iowa Policy to Encourage Distributed Generation.**

The Board determined that it would be premature to study the costs and benefits of DG, as some participants including OCA urged. Instead, the Board concluded that the best option for Iowa is to conduct pilot projects exploring various aspects of net metering or other DG issues that could be used to inform future policy or rule changes:

A pilot approach would create an opportunity for innovation and exploration of best practices outside the parameters of current net-metering policies. It also provides an opportunity to make changes on a limited basis in order to determine the impacts those changes might have on the utility and its customers prior to making these changes permanent.<sup>15</sup>

Therefore, the Board "encourage[d] all utilities," but particularly MEC and IPL, "to consider implementing pilot projects that will expand renewable DG in Iowa, and to collaborate with the participants in this NOI while developing pilot program proposals."<sup>16</sup>

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<sup>15</sup> October Order, p. 7.

<sup>16</sup> *Id.* at pp. 9-10

OCA continues to believe that appropriate DG policies depend on a good understanding of the costs and benefits of DG. An optimal level of DG deployment will not occur if supportive policies are not in place. If the study of DG costs and benefits is deferred until more wide-scale deployment of these technologies is achieved, Iowa may well miss the opportunity to adopt policies that promote the attainment of beneficial levels of DG development.

IPL's proposed calculation of customer load will lead to significant under-sizing of DG facilities in many instances, which will impact the economics of the DG installation. Accordingly, IPL's proposed pilot tariff does not create an opportunity for innovation and exploration of best practices that support expanded DG development as the Board envisioned for these pilots. IPL's pilot is thus also inconsistent with state policy to encourage renewable energy generation. Iowa Code § 476.41 (2017).

**3. The Board Should Not Mandate the Conveyance of Specified Portions of Excess AEP/QF Generation to Low Income Organizations; Other Strategies Should be Considered to Advance the Interests of Lower Income Customers**

The Board directed that payments for cash-out of excess AEP/QF generation is to be divided evenly between the customer and the utilities' funds to provide customers assistance to customers in need, and allowed customers to designate as much as 100 percent of its excess generation toward funds for customers in need. IPL abides by the Board's directions regarding the allocation of excess generation credits.

Upon cash-out, AEP/QF customers are entitled to payment for their net excess generation at a rate consistent with the utility's avoided costs.<sup>17</sup> While the allocation of excess generation credits to customers in need is a laudable proposal to help lower-income customers realize the

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<sup>17</sup> 18 CFR 292.304 (a), (b); 199 IAC 15.5(1), (2).

benefits of renewable energy generation, OCA supports allowing customers to decide what percentage of excess generation they wish to contribute to customers in need. Instead of mandating AEP/QF customer contribution of excess generation to designated customer assistance funds, the Board should consider other pilot approaches to provide lower-income customers greater opportunities to participate more directly in the benefits of renewable DG, such as locating community solar projects in lower income housing complexes.

**4. IPL's Tariff Does Not Provide for the Assignment of Rights to New Customers Acquiring a Premise on which an AEP/DG Facility Is Installed.**

Although the new net metering tariff must sunset within three to five years of its effective date, the Board recognizes the importance of having tariff continuity for the life of the facility and established 25 years as the applicable term for the life of the facility. OCA has no objection to this determination. However, OCA recommended that IPL incorporate language specifically allowing IPL and its customers to assign their rights and obligations under this net metering tariff to acquiring entities. A short-term pilot coupled with the inability to assign the pilot tariff terms for the remainder of the 25-year term may discourage renewable energy investment.

MidAmerican includes acceptable assignment provisions in its proposed net metering tariff.<sup>18</sup>

With the transition to a short-term tariff and the uncertainty about what net metering terms will be available at the conclusion of this period, it is important to offer net metering customers who interconnect during the pilot period the ability to transfer such facilities to new purchasers under the same tariff terms. This outcome appears to be consistent with the Board's desire to have the tariff rate available for the life of the facility.

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<sup>18</sup> MidAmerican Energy Company, Docket No. TF-2016-0323, Sheet No. 365.

WHEREFORE, OCA requests that the Board reconsider of its February 3, 2017 Order, and issue guidance on appropriate net metering compliance tariffs in accordance with the foregoing arguments.

Respectfully submitted,

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